

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
MAY 5, 2006**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on May 5, 2006, beginning at 10:05 a.m. The meeting was tape-recorded and the tape(s) are on file at the ABC Commission in the Legal Division.

ROLL CALL

Chairman Fox and Commissioner John Lyon were present at the meeting. Commissioner Joyner was not present.

MINUTES OF APRIL 12, 2006 MEETING

Chairman Fox made a motion to waive the reading of the minutes from the April 12, 2006, meeting into the record. Seconded by Commissioner Lyon. So Ordered. Chairman Fox made a motion to approve the minutes from the April 12, 2006, meeting. Seconded by Commissioner Lyon. So Ordered.

EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST

As required by Executive Order Number One, Chairman Fox asked Commissioner Lyon if there were any known conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the Agenda. Commissioner Lyon stated that he found no conflicts of interest. Chairman Fox stated that he had no conflicts.

I. HEARING CASES - 63 Listed

Chief Counsel Fred A. Gregory stated that John Ormand, attorney for hearing case #7, Wilco 281, was present to speak on behalf of his client. Mr. Ormand asked the Commission to reduce the penalty to \$500.00 and that his client would take a RASP class. Mr. Ormand stated it was the clerk's first day on the job. He went on to state that the minor appeared to look older than 21 years old. The clerk asked the minor how old she was and the minor stated that she was 25 years old. The clerk did not ask for any ID.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all the employees attend a RASP class within the next 30 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Gregory stated that Betty Willis was present to speak on behalf of her business, 1st Offense case #5, Willis Third Generation. Mrs. Willis stated that her employee sold alcohol to a minor and did not ask for any ID. Mrs. Willis asked the Commission for a reduction in the penalty and that her employees would attend a RASP class.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all the employees attend a RASP class within the next 30 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Gregory stated that Judy Rhead, owner of hearing case #31, Tudor House Restaurant, was present to speak on behalf of her business. Mrs. Rhead stated that in regard to the first violation, she had previously closed the business, but later reopened. She discovered that she had some leftover alcohol and brought it up into the restaurant. Mrs. Rhead stated that she did not know that she had done anything wrong. The business never changed ownership; she just closed the business for a period of time and later reopened the business. The leftover alcohol was hers. In regard to the second violation, Mrs. Rhead stated that she had bought some alcohol to cook with. She stated that she did not know that she needed a culinary permit. Once again Mrs. Rhead stated that she did not know that she had done anything wrong.

Chairman Fox made a motion to reduce the penalty to \$400.00, upon the stipulation that all the employees attend a RASP class within the next 30 days. Seconded by Commissioner Lyon. So Ordered.

Mr. Gregory stated that Mr. Bassam Khalaf owner of 1st Offense case #1, Bass Food Mart, was present to speak on behalf of his business. Mr. Khalaf stated that they have procedures in place regarding selling alcohol. The employee did not follow procedures and is no longer employed with the business.

Chairman Fox made a motion to reduce the penalty to \$500.00 upon the stipulation that all the employees attend a RASP class with in the next 30 days. Seconded by Commissioner Lyon. So Ordered.

Commissioner Joyner made a motion to approve the remaining Offers in Compromise, with the exception of hearing cases #7, Wilco 281 and hearing case #31, Tudor House Restaurant, which had been ratified earlier. Seconded by Commissioner Lyon. So Ordered.

II. FIRST OFFENSE CASES – 36 Listed

The following is a list of first offense violation cases in which Final Agency Decisions were signed by Chairman Fox on May 5, 2006, pursuant to the Commission's authorizing resolution dated November 8, 2002:

1. Bass Food Mart – 716 East Chester Drive, High Point, NC 27262
2. Ingles 27 – 756 South Church Street, Forest City, NC 28043
3. Roasting Company – 1521 Montford Drive, Charlotte NC 28209
4. Blue Flame – 100 Pleasant Hill Road, Gaston, NC 27832
5. Willis Third Generation – 917 East Union Street, Morganton, NC 28655
6. Willoughbys – 301 East Macon Street, Warrenton, NC 27589
7. Wilco 281 – 2702 Hwy 105, Boone, NC 28607
8. Fast Lane Convenience Mart – 6215 South NC Hwy 41, Wallace, NC 28466
9. Billys Pork and Beef Center – 5716 Hwy 41 South, Wallace, NC 28466
10. Alex Market – 923 Nicholas Street, Henderson, NC 27536
11. Taste of India – 2401 Penny Road, Suite 101, High Point, NC 27265
12. Paradise Landing – 318 Fulchers Landing Road, Sneads Ferry, NC 28460
13. Olive Garden Italian Restaurant 1378 – 4805 Capital Boulevard, Raleigh NC 27604
14. N Club – 117 South Elm Street, Greensboro, NC 27401
15. Neighbors Food Store 5 – 115 Wisconsin Lane, Mount Airy, NC 27030
16. McDougald Terrace Super Market – 832 Rideway Avenue, Durham, NC 27701
17. Lick Fork Express – 1012 North Mountain Street, Cherryville, NC 28021
18. Southern Star Saloon – 2901 English Road, High Point, NC 27260
19. Silver Villa Restaurant – 606 East King Street, Kings Mountain, NC 28086
20. Pernells Grocery – 2220 US Hwy 401 South, Warrenton, NC 27589
21. Grand Food Mart – 422 East Grand Avenue, Rocky Mount, NC 27801
22. Currituck Sports Two – 3581 Caratoke Hwy., Maple NC 27956
23. Creechs Recreation Center – 110 SW Railroad Street, Wallace, NC 28466
24. Boyds B P – 323 Manson Brewery Road, Manson, NC 27533
25. Village Grocery 2 – 133 Roanoke Rapids Road, Gaston, NC 27832
26. Jim Dandy 12 – 1884 Hwy 24, Newport, MC 28570
27. Go Grocery Outlet 19 – 132 Commercial Drive, Suite 116, Forest City, NC 28043
28. Gold Rock Food Mart – 1209 Gold Rock Road, Rocky Mount, NC 27804
29. Goochies Place – 235 South Powell Street, Forest City, NC 28043
30. Friendly Mart – 3055-A Stantonsburg Road, Wilson, NC 27893
31. Dunns Deli – 134 West Main Street, Banner Elk, NC 28604

Chairman Fox made a motion to approve the Offers in Compromise for the First Offense cases with the exception of 1st Offense cases #1 Bass Food Mart and case #5 Willis Third Generation that had been earlier ratified. Seconded by Commissioner Lyon. So Ordered.

II. ABC STORE LOCATION – ASHEVILLE ABC BOARD

Administrator Michael Herring addressed the Commission concerning the proposed location of an ABC Store in Buncombe County. The Asheville ABC Board plans to replace an existing ABC Store located at 6 Long Shoals Road, Asheville, NC, which is approximately .4 of a mile from the proposed building site for the new location. On April 13, 2006, Alcohol Law Enforcement Agent Brian S. Ogle conducted an investigation and found that the Asheville ABC Board plans to purchase a suite for \$720,000.00 in a properly owned and being developed by Holrob-Long Shoals Road LLC.

The estimated completion date for the proposed store is November 1, 2006. The building will be a single story structure containing approximately 10,595 square feet.

The property is zoned properly. No conflict of interest exists between the property owner and the Asheville ABC Board.

The nearest church is Trinity Fellowship Church and is approximately .2 mile from the proposed location. The nearest school is Valley Springs Middle School located .3 mile from the proposed location.

Pursuant to ABC Commission Rules, Notice of Intent was posted on March 31, 2006, in compliance with the ABC Commission's 30-day requirement. No complaints have been received.

Mr. Herring recommended that the ABC Commission approve the new store location.

Chairman Fox made a motion to approve the store location. Seconded by Commissioner Lyon. So Ordered.

IV. ABC STORE LOCATION – MECKLENBURG COUNTY/CITY OF MINT HILL

Administrator Michael Herring addressed the Commission concerning the proposed location of an ABC Store in the Town of Mint Hill. Mr. Herring stated that the Mecklenburg County ABC Board has found a site better suited to Town of Mint Hill. The Mecklenburg County ABC Board has communicated this information to Mayor Biggers and Town Manager Todd Lamb. If the Commission needs any further information, the Mecklenburg County ABC Board will provide it.

Chairman Fox stated that he would need to see more information on this proposed site in writing Mr. Herring stated that he would let Chief Executive Officer, Calvin McDougal know that.

V. ABC STORE LOCATION – TRYON ABC BOARD

Administrator Michael Herring addressed the Commission concerning the proposed location of an ABC Store in Polk County. The Tryon ABC Board plans to open an ABC Store in the Town of Tryon, North Carolina. On April 13, 2006, Alcohol Law Enforcement Agent John M. Pace conducted an investigation and found that the proposed location will be at 354 South Trade Street, Suite C, Tryon, North Carolina. The Tryon ABC Board is currently in negotiations with the property owner to lease the building for a period of ten years. The board will pay \$1,200.00 a month with no increase in the rental price during the ten-year lease. The total sum the board will pay to the property owner during the ten-year lease is \$144,000.00.

The property is zoned properly. No conflict of interest exists between the property owner and the Tryon ABC Board.

The nearest church is Tryon United Methodist Church and is .1 mile from the proposed location. The nearest school is Forbes Preschool located .8 mile from the proposed location.

Pursuant to ABC Commission Rules, Notice of Intent was posted on April 3, 2006, in compliance with the ABC Commission's 30-day requirement. No complaints have been received.

Mr. Herring recommended that the ABC Commission approve the new store location. Mr. Herring also added that the ABC Board is already in the location because the lease was up last month on their previous location. He went on to state that they forgot that they needed to get the Commission's approval first.

Chairman Fox made a motion to approve the store location. Seconded by Commissioner Lyon. So Ordered.

VI. OTHER BUSINESS

With no further business, the meeting adjourned.

Douglas A. Fox, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

Tiffany Goodson, Legal Division